



UNITED STATES DEPARTMENT OF COMMERCE

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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/347,748 12/01/94 KAUSHANSKY

K 94-9C2

EXAMINER

18N2/0725

ART UNIT 6

PAPER NUMBER

DEBRA K LEITH
ZYMOGENETICS INC
1201 EASTLAKE AVENUE EAST
SEATTLE WA 98102

1812

DATE MAILED: 07/25/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

for restriction purposes only

This application has been examined Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 1 - 30 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims _____ are rejected.

5. Claims _____ are objected to.

6. Claims 1 - 30 are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved; disapproved (see explanation).

12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

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Part III DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-8, are drawn to an *in vitro* method for stimulating erythropoiesis, classified in Class 435, subclass 240.2.

Group II. Claims 9-30, are drawn to an *in vivo* method for stimulating erythropoiesis, classified in Class 514, subclass 12,

The inventions are distinct, each from the other because of the following reasons:

Although there are no provisions under the section for "Relationship of Inventions" in MPEP 806.05 for inventive groups that are directed to different methods, restriction is deemed to be proper because these methods appear to constitute patentably distinct inventions for the following reasons:

Groups I and II are directed to methods that are distinct because the methods have different goals, starting materials and/or method steps and are therefore patentably distinct; and are not required one for the other.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for

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Group II restriction for examination purposes as indicated is proper.

A telephone call was made to Debora Sawislak on July 17, 1995 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camelia R. Smith whose telephone number is (703) 305-3132. The examiner can normally be reached on Monday-Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Garnette Draper, can be reached on (703) 3084232. The fax phone number for this Group is (703) 3080294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 3080196.

Camelia R. Smith, Ph.D. *CLS*
July 19, 1995

Marianne P. Allen
MARIANNE P. ALLEN
PRIMARY EXAMINER
GROUP 1800